

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

COREY LOUIS HINES,)	
)	
Petitioner,)	
)	
v.)	No. 4:10CV1877 SNLJ
)	
LISA J.W. HOLLINGWORTH,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on remand from the United States Court of Appeals for the Eighth Circuit for a ruling on petitioner's motion to reopen the time for filing a notice of appeal.¹ After review, the Court finds that the motion should be granted.

The Court issued its final judgment in this case on October 8, 2010. At that time, petitioner had just been relocated from USP Marion to USP Victorville. Petitioner did not receive his property from USP Marion until October 25, 2010. And petitioner did not receive notice of the Court's final judgment until November 18, 2010. Petitioner filed his motion to reopen and his notice of appeal on November 19,

¹The Court overlooked petitioner's motion due to a clerical error.

2010, the date on which petitioner signed his notice of appeal and placed it in the prison mail system.

Rule 4(a)(6) of the Federal Rules of Appellate Procedure states:

Reopening the Time to File an Appeal. The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

- (A) the court finds that the moving party did not receive notice under Federal Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;
- (B) the motion is filed within 180 days after the judgment or order is entered or within 7 days after the moving party receives notice under Federal Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and
- (C) the court finds that no party would be prejudiced.

The requirements of Rule 4(a)(6) are satisfied in this instance. Petitioner did not receive notice of the judgment until more than twenty-one days after it was entered. And petitioner filed his motion to reopen within seven days after he received notice of the judgment. As a result, the Court will grant the motion.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion to reopen the time for filing a notice of appeal [Doc. #10] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall forward a copy of this Memorandum and Order to the United States Court of Appeals for the Eighth Circuit, with reference to Hines v. Hollingworth, No. 10-3698.

Dated this 7th day of December, 2010.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE